

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

COMMSCOPE, INC., et al.,	.
	.
Plaintiffs,	.
	. Case No. 19-cv-15962
vs.	.
	. Newark, New Jersey
ROSENBERGER TECHNOLOGY	. February 19, 2025
KUNSHAN CO., LTD., et al.,	.
	.
Defendants.	.

TRANSCRIPT OF HEARING  
BEFORE THE HONORABLE LEDA DUNN WETTRE  
UNITED STATES MAGISTRATE JUDGE

This transcript has been **SEALED (AVAILABLE FOR PARTIES; NOT AVAILABLE FOR THE PUBLIC)** pursuant to Loc. Civ. R. 5.3(c)(2).

This transcript has been reviewed and revised in accordance with L. Civ. R. 52.1.

APPEARANCES (the parties appeared via video conference):

For the Plaintiffs: STEVEN A. KARG, ESQ.  
Norris McLaughlin, PA  
400 Crossing Boulevard, 8th Floor  
PO Box 5933  
Bridgewater, NJ 08807-5933  
(908) 252-4276  
sakarg@norris-law.com

Audio Operator:

Transcription Service: KING TRANSCRIPTION SERVICES, LLC  
3 South Corporate Drive, Suite 203  
Riverdale, NJ 07457  
(973) 237-6080

Proceedings recorded by electronic sound recording; transcript produced by transcription service.

1 (APPEARANCES continued)

2 For the Plaintiffs: HARMONY A. MAPPES, ESQ.  
3 Faegre Drinker Biddle & Reath LLP  
4 300 N. Meridian Street  
5 Suite 2500  
6 Indianapolis, Indiana 46204  
7 (317) 237-8246  
8 harmony.mappes@faegredrinker.com

9 ANNA E. SALLSTROM, ESQ.  
10 Faegre Baker Daniels LLP  
11 2200 Wells Fargo Center  
12 90 South Seventh Street  
13 Minneapolis, Minnesota 55402  
14 (612) 766 7614  
15 anna.sallstrom@FaegreBD.com

16 RANDALL KAHNKE, ESQ.  
17 Faegre Drinker Biddle & Reath LLP  
18 2200 Wells Fargo Center  
19 90 South Seventh Street  
20 Minneapolis, Minnesota 55402,  
21 (612) 766-7658  
22 randall.kahnke@faegredrinker.com

23 TRACEY SALMON-SMITH, ESQ.  
24 Faegre Drinker Biddle & Reath LLP  
25 600 Campus Drive  
Florham Park, New Jersey 07932  
(973) 549-7038  
Tracey.salmonsmith@faegredrinker.com

BRYAN K. WASHBURN, ESQ.  
Faegre Baker Daniels LLP  
2200 Wells Fargo Center  
90 S. Seventh Street  
Minneapolis, Minnesota 55402  
(612) 766-8014  
Bryan.washburn@faegredrinker.com

22 For the Defendants: SY KIM, ESQ.  
23 Cullen and Dykman LLP  
24 433 Hackensack Avenue  
25 Hackensack, NJ 07601  
(201) 442-2733  
SKim@cullenllp.com

1 (APPEARANCES continued)

2 For the Defendants: NICHOLAS PELLEGRINO, ESQ.  
3 King & Wood Mallesons  
4 500 Fifth Avenue, 50th Floor  
5 New York, NY 10110

6 VINCENT FILARDO, JR., ESQ.  
7 King & Wood Mallesons  
8 500 Fifth Avenue, 50th Floor  
9 New York, NY 10110  
10 (212) 319-4755  
11 Vincent.filardo@us.kwm.com  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

|Hearing  
|19-cv-15962, February 19, 2025  
|SEALED (available for parties; NOT available for the public)

4

1 (Commencement of proceedings)

2

3 THE COURT: Okay. Good afternoon. We are on the  
4 record in CommScope Inc. versus Rosenberger, et al.,  
5 19-cv-15962.

6 This is Magistrate Judge Wettre. We're here for a  
7 status conference.

8 And may I have appearances starting with the  
9 plaintiff's counsel.

10 (Simultaneous conversation)

11 MS. SALMON-SMITH: Good afternoon, Your Honor --

12 (Simultaneous conversation)

13 MALE SPEAKER: Go ahead, Tracey.

14 MS. SALMON-SMITH: Good afternoon, Your Honor.

15 Sorry.

16 Tracey Salmon-Smith as local counsel for plaintiff.

17 THE COURT: Good afternoon.

18 MR. KARG: Good afternoon, Your Honor. This is  
19 Steve Karg from Norris McLaughlin, local counsel for  
20 plaintiffs.

21 THE COURT: Okay. And I'll reserve my greetings to  
22 you all until the end. Go ahead.

23 MR. KAHNKE: All right. This is Randy Kahnke on  
24 behalf of the plaintiff.

25 MS. MAPPES: This is also Harmony Mappes from

1 Faegre on behalf of plaintiff.

2 MS. SALLSTROM: Anna Sallstrom also on behalf of  
3 plaintiff.

4 MR. WASHBURN: And Bryan Washburn from Faegre on  
5 behalf of plaintiffs.

6 THE COURT: Okay. Is that all for plaintiff?

7 MR. KAHNKE: Yes.

8 THE COURT: Okay. Good afternoon to all of you.  
9 And may I have appearances from defendants?

10 MR. KIM: Sy Kim from Cullen & Dykman, local  
11 counsel for defendants.

12 MR. FILARDO: Vincent Filardo Jr. from King & Wood  
13 Mallesons on behalf of defendants.

14 MR. PELLEGRINO: And Nicholas Pellegrino from  
15 King & Wood Mallesons on behalf of defendants.

16 THE COURT: Okay. That's everyone for defense?

17 MR. FILARDO: Yes, it is, Your Honor.

18 THE COURT: Okay. And good afternoon to all of  
19 you.

20 So I did receive your joint letter of  
21 February 12th, 2025, which is under seal at ECF 611.

22 I'm going to provisionally seal this transcript at  
23 this time subject to unsealing certain parts that may not be  
24 confidential, you know, down the road once counsel have a  
25 chance to review the transcript.

1 (Proceedings sealed)

2 THE COURT: All righty. So I did review the letter  
3 of February 12th. And before we get into some of the issues  
4 raised in it, I wondered if, first, plaintiff's counsel, then  
5 defense counsel could give me an update on where things stand  
6 relative to the discovery schedule that was set. And, for  
7 instance, I'm looking to learn from counsel whether they, in  
8 fact -- all expert reports have now been served.

9 So we'll start with plaintiff's counsel.

10 MR. KAHNKE: Yes, all expert reports have been  
11 served, Your Honor.

12 THE COURT: Okay.

13 And, Defense Counsel, same for you?

14 MR. FILARDO: Yes, Your Honor, that's correct. All  
15 have been served.

16 THE COURT: Okay. And then is it also correct that  
17 none of the experts' depositions have yet been taken?

18 MR. KAHNKE: That is correct.

19 THE COURT: Okay.

20 Defense same?

21 MR. FILARDO: Correct, Your Honor.

22 THE COURT: Okay.

23 MR. FILARDO: Yup.

24 THE COURT: So to the extent an extension is being  
25 sought, it's to depose experts; is that correct?

1 MR. FILARDO: Your Honor, this is Vincent Filardo  
2 on behalf of defendants.

3 That is correct. That's -- the basis for it is in  
4 our papers. I'm happy to discuss it. But that's correct,  
5 just for the depositions of experts.

6 THE COURT: Okay. And then this is touching on  
7 some of the issues in the letter, but I know there's a  
8 request from defendants for certain valuation-related  
9 documents in the transaction between the previous plaintiffs  
10 and then prospective new plaintiff.

11 Does defendant anticipate that if they received  
12 certain responsive materials, they might have to amend any of  
13 their expert reports?

14 MR. FILARDO: Your Honor, that is -- that is  
15 possible. We may have to supplement our expert reports.

16 THE COURT: Okay. And which -- how many of your  
17 expert reports might that affect? I mean, I imagine some are  
18 unrelated to valuation issues.

19 But you tell me how -- approximately how many of  
20 your experts might be impacted by responsive information that  
21 may be produced?

22 MR. FILARDO: I think it may be as many as three:  
23 valuation; security, which touched on a number of issues; and  
24 some technical issues as well. So --

25 (Simultaneous conversation)

Hearing  
19-cv-15962, February 19, 2025  
SEALED (available for parties; NOT available for the public)

8

1 MR. FILARDO: -- three reports.

2 THE COURT: Okay. And how many other experts do  
3 you have?

4 MR. PELLEGRINO: Hi, Your Honor, this is Nick  
5 Pellegrino. We have five experts.

6 THE COURT: Okay. Out of a total of five. Okay.  
7 Three of defendants' five experts.

8 All right. So that overview is helpful.

9 Now let me just turn it over -- not to get  
10 heavy-duty into any of the issues in the letter because we'll  
11 do that topic by topic.

12 But is there anything, Mr. Kahnke, you or your  
13 colleagues would like to raise with the Court or provide by  
14 way of a general update?

15 MR. KAHNKE: Sure. I would just say, Your Honor,  
16 we have produced -- this deal, this transaction, where  
17 Amphenol acquired the relevant portion of CommScope's  
18 business, was announced last July, and we've produced a  
19 substantial volume of documents. The expert reports have  
20 been -- the deadlines have been extended substantially.  
21 We've effectively had an additional six months of discovery  
22 if we go back and look at even before -- beyond the dates  
23 that are mentioned in the letters.

24 And we just want to keep moving -- we would like to  
25 keep things moving forward.

1 I will just say that there is -- I take your  
2 guidance that we don't want to get too much into the  
3 letter -- you'll take that issue by issue. But I think  
4 there's an assumption that there were certain types of  
5 valuations done; the defendants are making those assumptions.  
6 And if we could provide to the Court a declaration from  
7 Amphenol, that might lay this to rest such that there is --  
8 we have clarity around this and we can move forward.

9 They want an extension. We're saying, fine. We're  
10 happy to accommodate the extension; if opposing counsel needs  
11 it, so be it. We want to be accommodating in that regard.

12 But we really do need to keep the summary judgment  
13 moving forward. Discovery has been substantially complete  
14 for over a year -- fact discovery.

15 And, boy, we just really need to keep the things  
16 moving forward here. That's what I would say by overall  
17 update, Your Honor.

18 THE COURT: Okay. Thank you.

19 And, Defense Counsel, anything general you want to  
20 say?

21 MR. FILARDO: Your Honor, all this additional  
22 discovery is not due to any request of defendants. You know,  
23 it's all -- they come as part of the record because of the  
24 change in situation, the sale of the OWN, business -- that's  
25 the outdoor wireless network business of CommScope, and

1 | because of CommScope's expansion generally of the claims in  
2 | this case. We've just reacted out of, you know, a need to  
3 | have discovery in order to put forth our defenses.

4 |           This particular discovery, which, by and large,  
5 | we're close to finishing, is just the close -- the end of the  
6 | closing documents that are called out literally, expressly in  
7 | the actual sale document. So we can get into that, as  
8 | Your Honor has pointed out. But that's where our requests  
9 | come from. It's not out of, you know, a desire to just  
10 | extend this case any longer than necessary.

11 |           THE COURT: All right. Well, let me jump a little  
12 | bit out of order into one of the issues which touches on what  
13 | you're talking about, which I'm wondering if defendants -- I  
14 | know there's arguments about getting any valuated --  
15 | valuation-related transactional documents from the  
16 | plaintiffs.

17 |           But has a formal discovery request for such  
18 | documents been served on plaintiffs?

19 |           MR. FILARDO: Previously, Your Honor. This goes  
20 | back to when we were first before Your Honor asking for an  
21 | extension on the expert reports; that is when we discussed,  
22 | you know -- propounded our discovery requests to the  
23 | plaintiffs related to these materials.

24 |           And then we've had meet and confers, several --  
25 | probably at least four or five -- on these particular issues

|Hearing  
|19-cv-15962, February 19, 2025  
|SEALED (available for parties; NOT available for the public)

11

1 with respect -- and what I mean by "these particular issues"  
2 are our document requests.

3 THE COURT: Okay. So does that mean you received  
4 ambiguous responses to the requests? For instance,  
5 plaintiffs did not respond "none" but they asserted  
6 objections and you just couldn't tell if there were  
7 responsive documents that were being withheld?

8 What generally -- give me the flavor of the  
9 responses you got back.

10 MR. FILARDO: Well, no formal written responses  
11 other than our own letters back and forth with respect to --

12 THE COURT: Okay. Well, that's one item of cure.  
13 I mean, I don't need plaintiffs filing declarations on the  
14 docket about discovery.

15 That's -- Mr. Kahnke, to the extent your client is  
16 willing to say that no documents exist, that should be done  
17 in response to their discovery demands.

18 MR. KAHNKE: There are no formal discovery  
19 requests, Your Honor.

20 THE COURT: I thought Mr. Pellegrino or Mr. Filardo  
21 just told me a moment ago that they did propound discovery  
22 requests.

23 MR. FILARDO: All in letters, Your Honor. All --  
24 written --

25 THE COURT: Okay.

1 MR. FILARDO: -- in written letters.

2 THE COURT: Okay. So this is what we're going to  
3 do because I think the federal rules are the best way to  
4 handle this.

5 So you're going to propound a set of RFPs detailing  
6 what you want, and those are going to be extremely discrete;  
7 just as to any valuation-related transactional documents, as  
8 I understand it.

9 And then CommScope shall have 14 days to respond to  
10 it.

11 And then that should lend some clarity.

12 How does that sound?

13 MR. FILARDO: That's fine for the CommScope-related  
14 documents, Your Honor, yes.

15 THE COURT: All right.

16 So, Defendants' Counsel, when do you want to -- how  
17 soon can you serve your RFPs on that topic?

18 MR. FILARDO: Next Wednesday?

19 THE COURT: Okay.

20 And I have that as the 26th.

21 And I'll give plaintiff 14 days to respond to that.  
22 And if it's as simple as no documents in those categories  
23 exist, we'll close out the issue. I mean, I don't mean to be  
24 overly simplistic.

25 Where do you think that could run into problems?

|Hearing  
|19-cv-15962, February 19, 2025  
|SEALED (available for parties; NOT available for the public)

13

1 MR. FILARDO: Your Honor, I think that's fine. I  
2 think we're following -- you know, that's provided under the  
3 federal rules. That's fine. If we have a -- you know, any  
4 issue with their response, we'll seek a meet and confer with  
5 them.

6 THE COURT: Okay. You've got to bring it to me  
7 quickly if there is a problem with that.

8 So why don't I say -- all right. So February 26th,  
9 they will be propounded.

10 And then March 12th or 13th, there will be a  
11 response, and any remaining issues as to this shall be raised  
12 with the Court by joint letter on or before March 21st.

13 Okay?

14 All right --

15 (Simultaneous conversation)

16 THE COURT: Yeah, okay. All right. And I  
17 thought -- I think it was Mr. Pellegrino, did you qualify  
18 when you played back what I said about serving discrete  
19 document requests? Did you say, that will be fine as to  
20 CommScope, but was there something else that you're wishing  
21 to propound? Or some other category of documents?

22 MR. FILARDO: Oh, Your Honor -- this is Vincent  
23 Filardo. That was me.

24 THE COURT: Okay.

25 MR. FILARDO: That was -- the documents we're all

|Hearing  
|19-cv-15962, February 19, 2025  
|SEALED (available for parties; NOT available for the public)

14

1 talking about are documents that we've requested of  
2 CommScope. That's why I qualified --

3 THE COURT: Okay. Okay. I got you.

4 All right. I just wanted to make sure I wasn't  
5 missing something.

6 All right. So let's talk about the substitution of  
7 the new plaintiff for the CommScope entities. I'm wondering  
8 whether you all can just have a stipulation if it is the case  
9 that the new plaintiff is standing one hundred percent in the  
10 shoes of the old plaintiff or plaintiffs with respect to  
11 claims, defenses, and everything else concerning the lawsuit.

12 Mr. Kahnke, what do you say to that?

13 MR. KAHNKE: Yeah, I think that's reasonable,  
14 Your Honor. And we -- I mean, that's effectively what we  
15 understand Rule 25 does by operation of the rules. And we  
16 have, in fact, proposed a stipulation to the defendants that  
17 I think is in step with what you just described.

18 THE COURT: All right.

19 So what -- what is defense counsel still worried  
20 about?

21 MR. FILARDO: Your Honor, it's Vincent Filardo.

22 I think we can -- and I've discussed with  
23 Mr. Kahnke that -- exactly that, consenting to it.

24 But the basis for this, even under the case law,  
25 relevant case law, is that there shouldn't be any prejudice

1 that's visited upon defendants as a result of the actual  
2 substitution. And I think there -- there may be -- because  
3 we haven't seen a number of issues related to our defenses  
4 with respect to ownership of the trade secrets, how that's  
5 changing or not changing and if that's going to affect our  
6 defense on that line and then also with respect to a  
7 potential conflict of interest that I raised with Mr. Kahnke  
8 with respect to my firm and one that may, indeed, even exist  
9 with respect to his firm, given the fact that Amphenol is a  
10 direct competitor of CommScope and they're opposite each  
11 other on this deal and post-closing issues happen -- I am not  
12 suggesting that those things can't be overcome. I think they  
13 can be -- even -- you know, to the extent that there's just a  
14 waiver, a blanket waiver that's made by Amphenol. But if we  
15 can resolve those potential issues of prejudice, then that  
16 goes, you know, towards our issue of agreeing to stipulate  
17 in.

18 I've also raised the fact that -- with Mr. Kahnke  
19 and you've seen it in our letters that, you know, we think  
20 that there is a fundamental difference between Amphenol and  
21 CommScope and that's not an exact standing in the shoes. But  
22 there are going to -- because they're such a big player and  
23 are such a big player in this marketplace, they are going to  
24 have preexisting positions with respect to some of the issues  
25 in this lawsuit. They can't -- you know, walk away from

1 those. And we're entitled to inquire into them, especially  
2 if they're going to be a plaintiff in this action, they're  
3 going to be subject to an appearance at trial.

4 So that was a separate issue that I raised.

5 But the primary one was prejudice as a result of  
6 the substitution.

7 THE COURT: Hmmm. Okay.

8 Mr. Kahnke, any response?

9 MR. KAHNKE: Yeah. It is not -- I think Rule 25  
10 addresses that. That is the purpose of Rule 25.

11 And the stipulation is clear and tracks Rule 25 --  
12 and I think tracks what Your Honor outlined. I think it says  
13 that the substitution will not -- you know, everyone will  
14 preserve all of their claims and defenses. The substitution  
15 is not going to -- it's merely a procedural device to get the  
16 proper party before the Court.

17 I think that the --

18 THE COURT: But say the new --

19 (Simultaneous conversation)

20 MR. KAHNKE: -- clear on that.

21 THE COURT: But take note, Mr. Pellegrino's [sic]  
22 point. Say the new plaintiff has made statements and, you  
23 know, representative statements, under-oath statements or  
24 representations, that would constitute admissions against  
25 interest in this case. Shouldn't -- shouldn't the defense be

|Hearing  
|19-cv-15962, February 19, 2025  
|SEALED (available for parties; NOT available for the public)

17

1 able to take advantage of those, inquire about them, get them  
2 on record? I mean, they are different companies.

3 MR. KAHNKE: Yeah, I -- let's just assume, I guess  
4 for the sake of the discussion, that such things exist, which  
5 is a significant assumption. None of that -- to start, there  
6 are a number of different companies that participate in this  
7 industry, including Amphenol and CommScope. And discovery of  
8 that sort was never sought during the years-long discovery  
9 phases of this case.

10 And so I just -- I just don't see -- and I -- can I  
11 say -- I [REDACTED]

12 [REDACTED] So, for example, if we look  
13 at the letter to Your Honor on page 5, defendants' portion,  
14 right in the middle of the page, it says: [As read]

15 Evidently a, quote, [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 That's just -- and representing now as an officer  
20 of the Court, Your Honor -- that is just inaccurate. I mean,  
21 that's an assumption that they're making. [REDACTED]  
22 [REDACTED]

23 [REDACTED] And we also have said that there is --  
24 [REDACTED]  
25 [REDACTED] It simply did not occur.

Hearing  
19-cv-15962, February 19, 2025  
SEALED (available for parties; NOT available for the public)

18

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 So when I say that there's a significant assumption  
12 when we talk about admissions or something of that nature, I  
13 think that the assumptions simply do not apply here. And, of  
14 course, they never sought third-party discovery of other  
15 companies in the industry during the extensive discovery  
16 phase.  
17 So -- and I don't see how that relates to  
18 substitution.  
19 THE COURT: All right. Well, I mean, I -- I can  
20 understand why they would want the discovery. I mean,  
21 even -- and I can think of circumstances where counsel -- and  
22 I am not sure that would be privileged across transactional  
23 parties -- could have, without specifying any of the  
24 confidential information, still have opined on the value of  
25 this case based upon what they have seen and not disclosed in

1 detail.

2 So, I mean, I can definitely see why the defendants  
3 want to make sure that there's no "there" there.

4 So -- but I think with that, we start with the set  
5 of RFPs -- now we're talking about the substitution. I think  
6 you all have to kick it around some more and meet and confer  
7 and see if plaintiff can address whatever legitimate concerns  
8 the defendants have.

9 And if they can't -- and maybe that can't be  
10 decided until after responses to the RFPs are due. So there  
11 is going to be some delay. The new party is not going to get  
12 right in under the protective order. And, you know, I think  
13 we have to look before we leap.

14 And, you know, that's -- I know they're probably  
15 chomping at the bit to get substituted, but we're going to  
16 make sure it's done carefully and correctly.

17 So I think you need to talk about whether there  
18 needs to be a motion for substitution under Rule 25 or you  
19 can reach a stipulation. I think that's going to ride a  
20 little bit until at least around the March 21st time when  
21 you'll send me a joint letter. Maybe you'll fold that in if  
22 there's still an issue.

23 I'm happy to hear you in response to that. That's  
24 just my thoughts.

25 MR. KAHNKE: No. I think -- Randy Kahnke here.

|Hearing  
|19-cv-15962, February 19, 2025  
|SEALED (available for parties; NOT available for the public)

20

1 Oh, I'm sorry. Go ahead, then.

2 MR. FILARDO: No, Your Honor, I was just going to  
3 say that's fine with defendants. If I may -- I mean, just to  
4 respond to some of these points that Mr. Kahnke raised  
5 earlier and Your Honor really addressed them, but, plain and  
6 simple, Amphenol's not a third party anymore. They're going  
7 to be a plaintiff if they're allowed in by the Court.

8 And our, you know, statements in letter had to do  
9 with literally documents that were identified to be produced.  
10 And I hear Mr. Kahnke [REDACTED]. But  
11 that doesn't mean those closing documents wouldn't have other  
12 relevant information [REDACTED]

13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 I mean, [REDACTED]  
17 [REDACTED]  
18 [REDACTED].

19 So these are important for us to really fill out,  
20 you know, the whole -- you know, deal as it's been presented.  
21 Seems like it would have all this stuff in it or at least  
22 statements with respect to why they're not in there.

23 THE COURT: Okay. Well, I certainly think you are  
24 entitled to explore that. And so you'll start with your  
25 federal rules requests.

1 And if it has to go further than that, it's -- I'm  
2 going to have to -- I'll have to rule on that. Okay?

3 MR. FILARDO: Okay.

4 THE COURT: That follow-up deposition is in order  
5 and the like. But let's take -- let's take it one step at a  
6 time.

7 And that --

8 MR. FILARDO: Thank you.

9 THE COURT: And I hear you, Mr. Kahnke, on wanting  
10 to move the case now. But things have happened along the  
11 way. And I never got the impression that anyone was in a  
12 particular "hair on fire" hurry in this case. And then  
13 things closed down in China for a year. So I think this is a  
14 worthwhile pause to make sure that the defendant's not  
15 prejudiced by, you know, a pretty big change in the case.

16 All right.

17 I already touched on -- I think the expert  
18 schedule's going to have to hold a little bit because if, in  
19 fact, experts have to amend their reports, then, you know,  
20 it's going to have to play out based upon what's produced by  
21 the plaintiff. And so I'm going to hold -- I'm going to hold  
22 the schedule.

23 I'll put something to keep you from panicking. So  
24 the -- why don't I put the expert -- the conclusion of expert  
25 depositions, the deadline -- or conclusion of expert

1 depositions will be reset by the Court after the foregoing --  
2 which, in my order, will be the details about RFPs and joint  
3 letters and all that.

4 All right. Anything further on that?

5 MR. KAHNKE: Not from the plaintiff, Your Honor.

6 MR. FILARDO: Not from defendants, Your Honor.

7 THE COURT: Okay.

8 And then I had kind of thoughts that nobody would  
9 like about could summary judgment on liability proceed while  
10 the valuation expert reports were in flux.

11 So I'll throw it out to you.

12 Why don't I ask defendants that question.

13 MR. FILARDO: On liability, Your Honor? I think  
14 twofold: Number one, there could be issue -- there may be  
15 issues that are raised in these documents and/or once -- or  
16 if Amphenol comes in and we have an opportunity to inquire  
17 into their documents, that would affect the actual substance  
18 on liability. Obviously, lack of damages is an element to  
19 all of these claims, to the extent that there is an issue  
20 there, which we think there is based upon our expert reports.  
21 And we do intend to file simultaneous Daubert motions which  
22 are going to tie in with the summary judgments. They're  
23 necessary, really, to file together. So we can't do that  
24 until after the expert depositions are closed.

25 And there is a lot here to go through and prepare

1 for after the close of all expert discovery. I mean, we  
2 think we can do it on a reasonable schedule but not the  
3 schedule proposed by plaintiffs, you know, in their recent  
4 letter. I mean, we haven't even formulated all of our issues  
5 yet. You know, we --

6 (Simultaneous conversation)

7 MR. FILARDO: -- the plaintiffs, but not all. And  
8 those may change.

9 THE COURT: Okay.

10 Does plaintiff's counsel want to comment on that  
11 subject?

12 MR. KAHNKE: No -- I do like this idea of moving  
13 forward with summary judgment. I mean -- I mean, fact  
14 discovery has long been closed. Yes, there's been a sale of  
15 the company. But I really think that there's not been a  
16 material change in what the facts are underlying this case.

17 And I guess -- and I hear defense counsel saying  
18 that we need to get the Dauberts on damages before the Court  
19 at the same time as our ex- -- they're going to demonstrate  
20 that there are zero damages.

21 With respect, that is not going to happen. If --  
22 there are -- it's over a billion dollars that are issue.  
23 The -- we've got a report that runs to nearly a hundred pages  
24 from a University of Chicago-trained Ph.D. who is well-known  
25 and well-respected by the federal courts across the country,

1 and we're not talking about novel legal issues here, novel  
2 theories.

3 I think that it's a good idea to have summary  
4 judgment go forward on liability. They've got a whole series  
5 of bases that they've identified for us verbally that are --  
6 that go to liability that are independent of the damages  
7 issues. And I think we could make progress on those with  
8 some --

9 THE COURT: Well, why don't we hold on that until  
10 at least later in March when we see which way the other  
11 issues are going because if there is no additional  
12 valuation-related information and that can be demonstrated  
13 and then there's no need to have new expert reports, then I  
14 can set summary judgment in good conscience for everything.  
15 So let's just hold a little bit on that. I hear what both  
16 sides are saying.

17 And then when you ultimately do seek to move for  
18 summary judgment and on spoliation grounds, you'll file  
19 premotion letters on the docket, but you can address those to  
20 me. You could address those to Judge Neals and me, but  
21 between the two -- he usually weighs in on Rule 12 motions in  
22 lieu of answer with premotion leave. And I usually handle  
23 the later motions to eyeball them and make sure they're ripe  
24 for filing.

25 So -- but we're not there yet. Let's just hold on

1 the dispositive motions.

2 And also I'm going to have to confer with him  
3 because some of the district judges don't want spoliation  
4 motions until trial, and they're adamant about it. Others  
5 treat it as, you know, a discovery sanction and will let the  
6 magistrate judge do at least an R&R on whether there should  
7 be adverse inference if there is -- spoliation is found.

8 So I'm not really sure where Judge Neals stands on  
9 that. So give me a little bit of time to investigate that  
10 with him.

11 All righty. So I think I got through the topics in  
12 the letters.

13 Is there anything that I missed that either side  
14 wants to raise?

15 And I'll turn to plaintiffs first.

16 MR. KAHNKE: No. We appreciate the Court's time  
17 and understand the guidance you are providing, Your Honor,  
18 about taking this step by step. I think you understand our  
19 position about the desire to move this forward. And we will  
20 follow your direction here and make sure that we're doing  
21 everything to make sure that we are moving it forward from  
22 our side.

23 THE COURT: Okay. Very good.

24 And, Defense Counsel?

25 MR. FILARDO: Thank you, Your Honor, for your time

|Hearing  
|19-cv-15962, February 19, 2025  
|SEALED (available for parties; NOT available for the public)

26

1 today.

2 We have nothing further to add. And I have nothing  
3 further to say in response to Mr. Kahnke with respect to his  
4 characterization. I'll leave that for our meet and confers.

5 THE COURT: Okay. So what I'm going to do, don't  
6 hang up. I'm going to take us off the record because I do  
7 want to have a closing discussion with you about something  
8 else. Okay?

9 MR. KAHNKE: Understood.

10 THE COURT: All right. Thanks. Hold on.

11 (Conclusion of proceedings)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Certification

I, SARA L. KERN, Transcriptionist, do hereby certify that the 27 pages contained herein constitute a full, true, and accurate transcript from the official electronic recording of the proceedings had in the above-entitled matter; that research was performed on the spelling of proper names and utilizing the information provided, but that in many cases the spellings were educated guesses; that the transcript was prepared by me or under my direction and was done to the best of my skill and ability.

I further certify that I am in no way related to any of the parties hereto nor am I in any way interested in the outcome hereof.

s/ *Sara L. Kern*

21st of February, 2025

Signature of Approved Transcriber

Date

Sara L. Kern, CET\*\*D-338  
King Transcription Services, LLC  
3 South Corporate Drive, Suite 203  
Riverdale, NJ 07457  
(973) 237-6080